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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/524,498

02/14/2005

Peter Rohrig

CU-4061 RJS

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EXAMINER

RODRIGUEZ, RUTH C

ART UNIT

PAPER NUMBER

3677

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/08/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/524,498	ROHRIG, PETER	
	Examiner	Art Unit	
	Ruth C. Rodriguez	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2006.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statement filed 14 February 2005 has been considered for this Office Action.
2. The indicated allowability of claims 4 and 5 is withdrawn in view of the newly discovered reference(s) to Ozaki (US 5,277,345). Rejections based on the newly cited reference(s) follow.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Cameron (US 5,388,313) in view of Ozaki (US 5,277,345).

Cameron discloses a U-shaped clip (30,40) has two clamping parts (36a,36b) pivotable relative to each other which are formed by legs of a U-section (30) having cooperating clamping regions (Figs. 2-10). Opposing inner-side surfaces of the

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clamping regions rest against each other in a closed clamping position of the clip (Figs. 5 and 6). The apex of the U-section is provided as a pivot axis or pivoting region, respectively, for the clamping parts (Figs. 2-10). The clamping regions of the clip are spaced apart in their relaxed open position (Figs. 3 and 4). The U-section comprises a fastening bracket (between 38 and 52) for connecting a strap to the clip. The U-shaped pacifier strap clip is a one piece plastic member (C. 13-22). Cameron fails to disclose that the U-shaped clip is a two-component member with a surface of at least one clamping region at least partially consists of a material having a lower hardness than the material of the clamping parts. However, Ozaki teaches a clip comprising two clamping parts (12) pivotable relative to each other which are formed by legs (12) having cooperating clamping region (Figs. 10-13 and 17). Each of the clamping parts has a two-component member (12,14) with a surface of at least one clamping region at least partially consists of a material (14) having a lower hardness than the material of the clamping part (C. 2, L. 1 and 2). The lower hardness material provides a no-slip means on the surface of the clamping part that engages the garment (C. 1, L. 59-65).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to provide the clamping region with a two-component member with a surface of at least one clamping region at least partially consists of a material having a lower hardness than the material of the clamping parts as taught by Ozaki in the U-shaped clip disclosed by Cameron. Doing so, provides a lower hardness material forming a no-slip means on the surface of the clamping part that engages the garment.

Ozaki teaches that:

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- One clamping region at least partially comprises a surface of the material of lower hardness (Figs. 10-13 and 17).
- At least one clamping region is at least partially formed by a coating of the material of lower hardness (Figs. 10-13 and 17).
- The inner surface of the clamping part in the clamping region is entirely coated with the material of lower hardness (Figs. 10-13 and 17).
- A narrow side rim of the clamping part in the clamping region is at least partially coated with the material of lower hardness (Figs. 10-13 and 17).
- A tooth profile is provided on each one of the inner surfaces of the clamping region (Fig. 17). The tooth profiles mesh in the clamping position and at least one tooth profile being made of the material of lower hardness (Fig. 17).

Cameron also disclose that a bracket embraces the two clamping parts and is shiftably mounted on the lattes to provide the transition into the clamping position (Figs. 3-10).

At least one clamping part externally includes at least one wedge-shaped web that widens towards the free end of the clamping part (Figs. 3-10). The web is made of the same material as the U-section (Figs. 3-10).

Two wedge-shaped webs arranged at the rim side are provided on one clamping part (Figs. 3-10).

The wedge-shaped webs have a profiled surface (26).

Cameron and Ozaki fail to disclose that the clamping regions are ovals.

However, it would have been obvious to one having ordinary skill in the art at the time

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the invention was made to have the clamping region being ovals since a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). The use of ovals or rectangular is well known in the clip area.

Cameron discloses that the clip is made of a hard synthetic material (C. 4, L. 13-22).

The clip taught by Ozaki is a two-component piece (Figs. 10-13 and 17).

Cameron discloses that the hard synthetic material is polycarbonate (C. 4, L. 13-22).

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Garrison.(US 5,020,705 and US 5,516,014), Petrou (US 5,178,306), Greer, Jr. et al. (US 6,698,071 B1) and Goldman (US 2005/0184109 A1) are cited to show state of the art with respect to devices having clips having some of the features being claimed by the current application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C. Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ruth C. Rodriguez  
Patent Examiner  
Art Unit 3677

rcr  
March 5, 2007

  
**ROBERT J. SANDY**  
**PRIMARY EXAMINER**